

# State of Washington PUBLIC DISCLOSURE COMMISSION

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9:00 a.m. December 4, 2002

#### MINUTES - SPECIAL MEETING

Doubletree Guest Suites 16500 Southcenter Parkway Seattle, Washington

#### COMMISSION MEMBERS PRESENT

Mike Connelly, Chair Susan Brady, Vice Chair Lois Clement, Secretary Christine Yorozu, Member Francis Martin, Member

#### STAFF PRESENT

Vicki Rippie, Executive Director Susan Harris, Assistant Director Michael Smith, Chief Technology Officer Nancy Krier, Asst. Attorney General Linda Dalton, Sr. Asst. Attorney General Ruthann Bryant, Secretary

The special meeting of the Public Disclosure Commission was called to order by Commission Chair Mike Connelly at 9:00 a.m. in the Doubletree Guest Suites, Seattle, Washington.

#### **Commissioner Comments**

Commissioner Connelly noted that this would be Commissioner Yorozu's final meeting and he presented her with a certificate and letter from Governor Locke. He also thanked her on behalf of the Commission.

Commissioners Brady and Clement thanked Commissioner Yorozu and wished her well in the future.

Commissioner Martin also commented that as the newest member, Commissioner Yorozu's knowledge and experience will be greatly missed.

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> Vicki Rippie expressed her appreciation on behalf of the staff and added that Commissioner Yorozu has always been an advocate for the agency and it's mission.

Commissioner Yorozu thanked the Commission members and credited staff for their dedication, hard work and commitment to teamwork.

# Citizen Comments/Concerns

Attorney Kevin Hamilton thanked Commissioner Yorozu for dedicating her time to public service and added that it is appreciated both by the public and the parties regulated by the Commission.

# **Minutes**

Motion 03-056

Moved by Commissioner Clement, seconded by Commissioner Brady:

The Commission adopts the minutes of the special meeting of October 29, 2002, as written.

The motion passed unanimously.

# **Enforcement Matters**

Hearing
Washington State Democratic
Central Committee

Commissioner Connelly noted that hearing against the Washington State Democratic Central Committee (WSDCC) for alleged violation of RCW 42.17.090(1)(I) by failing to forfeit a contribution received from the Democratic Party of Oregon, who had not timely filed a C-5 report, was heard at the October 29, 2002 meeting and the Commission had requested that counsel and staff submit a brief for the Commission's consideration.

Commissioner Clement commented that she was on the executive committee of the Washington State Democratic Central Committee (WSDCC) during 2000 and she recused herself from consideration of this matter.

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Susan Harris summarized the Stipulation of Facts and Violation noting that although the Respondent and staff were unable to jointly recommend a penalty for consideration, they both agree that the penalty falls within the scope of the Commission's statutory authority for a single violation.

Attorney Kevin Hamilton was present and commented in support of the stipulation. He also added that he does not believe it is beyond the power of the Commission to impose an appropriate penalty.

Moved by Commissioner Brady, seconded by Commissioner Yorozu:

The Commission accepts the Stipulation of Facts and Violation in PDC Case #03-068, Washington State Democratic Central Committee

Voting For: Commissioner Brady, Martin, Yorozu and Connelly.

Abstaining: Commissioner Clement.

The motion passed.

Moved by Commissioner Brady, seconded by Commissioner Yorozu:

The Commission assesses a penalty of \$1,000 with \$500 suspended based on no future violations of RCW 42.17.090(1)(I) for four years in PDC Case #03-068, Washington State Democratic Central Committee.

Voting For: Commissioner Brady, Martin, Yorozu and Connelly.

Abstaining: Commissioner Clement.

The motion passed.

Motion 03-057

Motion 03-058

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Vicki Rippie was authorized to sign the order on behalf of the Commission.

# Rule-Making

WAC 390-17-110 Notifying employees regarding voluntary payroll deductions

Doug Ellis briefly summarized continuing activity regarding a proposed new rule which addresses two types of notices to employees that are required under RCW 42.17.680:

- A nondiscrimination notice (RCW 42.17.680(2)), and,
- A revocation notice (RCW 42.17.680(3)).

The rule also clarifies who sends the notifications to employees, examples of what constitutes written notification, and retention of records.

Mr. Ellis reported that Legislative history and a recent State Supreme Court case were considered in drafting the new rule. He also noted that Jami Lund of the Evergreen Freedom Foundation and Nancy Wildermuth expressed support for the proposed language.

Attorney, Jim Oswald, representing the Washington State Labor Council, stated that the fundamental problem with the proposed new rule is ambiguity of language. He suggested that the entity soliciting the employee's authorization for withholding be the entity that sends out the non-discriminatory notification instead of the employer.

Staff is requesting approval of the language to be included in a proposed new rule and a CR-102 Proposed Rule-Making notice will be filed with the code revisers office and a public hearing will be scheduled.

Moved by Commissioner Yorozu, seconded by Commissioner Brady:

Motion 03-059

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The Commission approves draft language for new rule WAC 390-17-110 Notifying employees regarding voluntary payroll deductions.

The motion passed unanimously.

Legislative Matters

Vicki Rippie summarized possible agency request legislation to modify RCW 42.17.090(1)(I) relating to reporting by out-of state and federal political committees since the information reportable on a C-5 by federal committees is substantially available to the public via the Federal Election Commission's web site.

The Commission directed staff to work with Nancy Krier and the code reviser's office to draft a bill to include the following amendments:

- Require the C-5 report only from out-of-state political committees that are not filing with the Federal Election Commission (FEC).
- b) Eliminate the forfeiture language; rely solely on standard penalty provisions of RCW 42.17.
- c) Change the due date of the report, and,
- d) Change the first sentence of the paragraph to minimize confusion.

The draft will then be submitted to the Governor's Office for review.

Ms. Rippie also reported on campaign finance issues related to potential Secretary of State's Office legislation changing Washington's primary election date from September to June.

Dean Logan, Director of Elections for the Secretary of State's Office, briefly summarized a draft June Primary Date Bill and welcomed input from the Commission.

The Commission expressed concern with the effects a June primary date would have on the Legislative Freeze Period, particularly the special

June Primary Bill

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session, and declined to take a position on the proposed bill.

**Advisory Matters** 

Susan Harris summarized a proposed L2 penalty schedule to be used by the Presiding Officer during brief enforcement hearings. The schedule accounts for the filing status of each individual and provides consistency in imposing penalties.

The Commission requested an additional proviso clarifying that any suspended portion will not be less than the original settlement offer amount per form. They also requested that the penalty schedule be included with the instruction manual and warning letters.

Motion 03-060

Moved by Commissioner Clement, seconded by Commissioner Martin:

The Commission adopts a policy implementing the L2 penalty schedule on a temporary basis for a six-month period as amended.

The motion passed unanimously.

Ms. Harris also summarized a proposal to allow staff to increase settlement offers to late L-2 filers from \$50 to \$100 to be consistent with other types of late filers.

Motion 03-061

Moved by Commissioner Brady, seconded by Commissioner Yorozu:

The Commission approves increasing the settlement amount for late L2 filers from \$50 to \$100 per missing report effective immediately.

The motion passed unanimously.

Kimura Protocols

Assistant Attorney General Nancy Krier briefed the Commission on the background of modification protocols for F1 reports and summarized possible revisions to current Kimura Protocols. She also

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suggested adopting the protocols as formal interpretations.

The Commission directed staff to gather input from the Washington State Bar Association and related organizations and bring the matter back at its January 28, 2003 meeting.

Strategic Plan Progress Report

Vicki Rippie briefly updated the Commission on the progress that has been made toward realizing the goals and objectives in the strategic plan, highlighting accomplishments in compliance and IT.

**Executive Session** 

The Commission went into executive session at 11:15 a.m. to discuss potential and pending litigation with legal counsel.

**Public Session** 

The Commission returned to public session at 11:45 p.m.

## Enforcement Matters (cont.)

King County, King County Dept. of Transportation, King County Transit, Case #01-203 and Case #01-204

Senior Assistant Attorney General Linda Dalton summarized a settlement agreement entered into on October 23, 2001, with King County, King County Department of Transportation and King County Transit, Case #01-203 and Case #01-204. The agreement imposed a \$20,000 penalty, of which \$12,500 was suspended based on certain actions by King County.

\$10,000 of the penalty was suspended based on the following:

- 1. No further violations of chapter 42.17 RCW for four years;
- 2. The adoption of a protocol designed to prevent future violations of RCW 42.17.680(3);
- 3. By April 23, 2002, the protocol was to be formally implemented by Executive Order;

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> 4. By April 23, 2002, King County would conduct training for all human resources, labor relations and payroll staff implementing the protocol. In addition, King County was to consult with PDC regarding the substance of the training and was to submit to PDC's Executive Director, for approval, the substance and schedule of the training.

> Ms. Dalton reported that the Executive Order formalizing the protocol was not implemented until October 28, 2002, and the training was not conducted by April 23, 2002 and training information requiring PDC's approval was not submitted. In addition, \$2,500 was suspended based on King County providing the protocol and training materials to the Washington State Association of Counties and the Washington Association of County Officials for placement on their agendas for their statewide meetings. Since the Executive Order was not implemented until October 28,2002, it appears that King County also did not adhere to this provision of the agreement.

Senior Deputy Prosecuting Attorney, Peter Ruffatto and King County Department of Transportation Deputy Director, Mary Peterson, were present and apologized to the Commission.

Mr. Ruffatto stated that the delay was due to new legislation amending RCW 42.17.680, which directly impacted the protocol referenced in the settlement agreement and King County had to research the changes in the law to determine what the impact would be on the protocol and the training to be conducted under the agreement.

Moved by Commissioner Brady, seconded by Commissioner Yorozu:

The Commission recommends that the Attorney General seek to obtain the suspended portion of the agreement.

Motion 03-062

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The motion passed unanimously.

Requests for Review

Guy Jones, Case #02-459

Mr. Stutzman reported that a brief enforcement hearing was held on June 4, 2002, in which Mr. Jones was found in violation of RCW 42.17.240 for failure to timely file a Statement of Financial Affairs. Mr. Jones was assessed a penalty of \$300 and the form was filed on November 22, 2002.

Mr. Jones provided a letter stating that he had left the district in March and officially resigned on April 1, 2002.

Motion 03-063

Moved by Commissioner Brady, seconded by Commissioner Clement:

The Commission vacates the order in PDC Case #02-459, Guy Jones.

The motion passed unanimously.

Ad Hoc Merchants Committee Doug Schurman, Treasurer

Mr. Stutzman reported that a brief enforcement hearing was held on October 2, 2002, in which Ad Hoc Merchants Committee and Doug Schurman were found in violation of RCW 42.17.040, for failure to timely file a Political Committee Registration and 42.17.080 for failure to provide for public inspection of campaign records during the eight days prior to the 2001 general election. The committee was assessed a penalty of \$250.

Mr. Schurman provided a letter stating that he was misinformed by a PDC staff member and requested that his name be removed from documents relating to the committee.

Motion 03-064

Moved by Commissioner Yorozu, seconded by Commissioner Martin:

The Commission upholds the violation and suspends the penalty of

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> \$250 pending no future violations of RCW 42.17 for 4 year in PDC Case #02-270, Ad Hoc Merchants Committee and Doug Schurman.

Voting For: Commissioners Yorozu, Clement and Martin.

Voting Against: Commissioners Brady and Connelly.

The motion passed.

Request for Reconsideration

Joe Wheeler, Case #02-625

Mr. Stutzman reported that a brief enforcement hearing was held July 23, 2002, in which Mr. Wheeler was found in violation of RCW 42.17.240 for failure to timely file a Statement of Financial Affairs. Mr. Wheeler was assessed a penalty of \$300 and the form was filed on May 22, 2002.

Mr. Wheeler provided a letter, which stated that his wife has been very ill for the past several years and the filing deadline was overlooked. He requested a reduction in the imposed penalty of \$300.

There was no motion to reconsider this matter.

## Personal Financial Affairs Reporting

**New Modification Requests** 

Mr. Stutzman noted that the requests for new reporting modifications have been postponed until the January 28, 2003 Commission meeting.

Renewal (no change)
Kenneth Alhadeff, Regent,
WA State University

Mr. Stutzman reported that Mr. Alhadeff requests an exemption from reporting payments and real estate holdings of several civic organizations for which he serves in a leadership role.

Motion 03-065

Moved by Commissioner Brady, seconded by Commissioner Clement:

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The Commission grants the requested reporting modification to Kenneth Alhadeff.

The Commission finds that literal application would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the act.

The motion passed unanimously.

# Electronic Filing Extension Requests

Douglas County Republican Central Committee

Susan Harris reported that Scott Jonas, treasurer for the Douglas County Republican Central Committee, requests an extension for electronic filing to allow time to have a fiber-optic internet connection installed in him home.

Motion 03-066

Moved by Commissioner Brady, seconded by Commissioner Yorozu:

The Commission grants an extension for electronic filing to the Douglas County Republican Central Committee until February 10, 2003.

The motion passed unanimously.

**MACPAC** 

Susan Harris reported that MACPAC – McDonald's Franchise Owners Political Committee – requests an extension for electronic filing because its treasurer has had several health related absences. In addition, all of its forms were timely filed on paper.

Motion 03-067

Moved by Commissioner Brady, seconded by Commissioner Clement:

The Commission grants an extension for electronic filing to MACPAC until February 10, 2003.

The motion passed unanimously.

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<u>Adjournment</u>

Commissioner Connelly adjourned the meeting at 2:40 p.m. The next meeting is scheduled for Tuesday, January 28, 2003.

Approved by the Commission 1/28/03